IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN KEITH MCGILL, 1307919,	)	
Plaintiff,	)	
v.	)	No. 3:08-CV-737-G
	)	ECF
NATHANIEL QUARTERMEN, Director, Texas	)	
Dept. Of Criminal Justice, Correctional Institutions	)	
Division,	)	
Defendant.	)	

RECOMMENDATION REGARDING CERTIFICATE OF APPEALABILITY

A Notice of Appeal has been filed in the above captioned action in which:

(**X**)   the District Court has entered a final order in a habeas corpus proceeding brought pursuant to 28 U.S.C. § 2254 dismissing the petition as a second or subsequent habeas petition pursuant to 28 U.S.C. § 2244.

( )   the District Court has entered a final order in a proceeding pursuant to 28 U.S.C. § 2255.

Pursuant to Federal Rule of Appellate Procedure 22(b) and 28 U.S.C. § 2253(c), the undersigned Magistrate Judge finds and recommends as follows:

IFP STATUS:

(**X**)   the party appealing should be GRANTED leave to proceed *in forma pauperis*.

( )   the party appealing should be DENIED leave to proceed *in forma pauperis*
for the following reason(s):

    ( )   the Court recommends that the District Court certify, pursuant to Fed. R. App. P. 24(a) and 28 U.S.C. § 1915(a)(3), that the appeal is not taken in good faith;

    ( )   the person appealing is not a pauper;

    ( )   the person appealing has not complied with the requirements of Rule 24 of the Federal Rules of Appellate Procedure and/or 28 U.S.C. § 1915(a)(1) as ordered by the Court. (See Notice of Deficiency and Order entered on _____).

COA:

( )   a Certificate of Appealability should be GRANTED. (See issues set forth below).

(**X**)   a Certificate of Appealability should be DENIED. (See reasons stated below).

REASONS FOR DENIAL: For the reasons stated in the Findings, Conclusions and Recommendation of the United States Magistrate Judge, filed on May 21, 2008, and as adopted by the District Court on June 4, 2008, Petitioner has filed a second or subsequent habeas petition which should be dismissed. See 28 U.S.C. §2244.

DATE: August 8, 2008

_____
PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE